

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
ALBUQUERQUE DIVISION

UNITED STATES OF AMERICA,)	CASE NO: 1:16-MJ-0931-KK
)	
Plaintiff,)	CRIMINAL
)	
vs.)	Albuquerque, New Mexico
)	
OLLISHA NICOLE EASLEY,)	Monday, March 14, 2016
)	(11:06 a.m. to 11:41 a.m.)
<u>Defendant.</u>)	

PRELIMINARY EXAMINATION / DETENTION HEARING

BEFORE THE HONORABLE KIRTAN KHALSA,
UNITED STATES MAGISTRATE JUDGE

Appearances:	See Next Page
Court Reporter:	Recorded; Liberty - Gila
Clerk:	C. Lopez
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Albuquerque, New Mexico; Monday, March 14, 2016; 11:06 a.m.

Call to Order

THE CLERK: The *United States of America* versus
Ollisha Nicole Easley.

MR. GERSON: The United States by Jonathen Gerson.

MR. PORI: Good morning, your Honor, Brian Pori for
Ollisha Nicole Easley who appears before you from in custody.
We are prepared to go forward both with the Preliminary Hearing
and the Detention Hearing, and we'd like to consolidate those
proceedings by way of questioning of Special Agent Jay Perry.

THE COURT: All right. Good morning, ma'am.

The Government is ready with their witness?

MR. GERSON: Yes, your Honor. Would your Honor
permit us to proceed by asking Agent Perry if he adopts the
affidavit in support of the Complaint as his Direct testimony
and then make him available through Cross examination?

MR. PORI: I have no objection to that proceeding.

THE COURT: That is fine with me.

MR. GERSON: Okay. Agent Perry.

THE CLERK: Would you raise your right hand?

GERALD PERRY, GOVERNMENT'S WITNESS, SWORN

THE WITNESS: Yes, ma'am, I do.

THE CLERK: Would you please spell your last name for
the record?

THE WITNESS: My name is Gerald Perry, last name

1 P-E-R-R-Y.

2 **MR. GERSON:** And if I may, your Honor, I'll just ask
3 the witness if he adopts that or if he does not.

4 **THE COURT:** Okay.

5 **DIRECT EXAMINATION**

6 **BY MR. GERSON:**

7 Q Agent Perry, have you had occasion to review that
8 Affidavit in support of your arrest warrants in this case?

9 A In the Criminal Complaint, yes, sir.

10 Q And do you adopt the content of your Affidavit in the
11 Criminal Complaint as your Direct testimony for this hearing
12 today?

13 A Yes, sir, I do.

14 Q Is there any change, as you sit here right now, that you'd
15 like to make to that Affidavit before Mr. Pori has asked you
16 any questions?

17 A No, sir.

18 **MR. GERSON:** Okay, thanks very much.

19 **THE COURT:** All right.

20 **MR. PORI:** May I please go ahead?

21 **THE COURT:** Yeah.

22 **MR. PORI:** Thank you.

23 //

24 //

25 //

1 **CROSS EXAMINATION**

2 **BY MR. PORI:**

3 Q Agent Perry, good morning.

4 A Good morning.

5 Q On March 10th you received a telephone call from a --
6 presumably someone who works for the Greyhound Bus Lines that
7 was working in Clermont, California?

8 A No, sir, that's not correct.

9 Q How did you receive the information that's contained in
10 Paragraph 1 of the Criminal Complaint?

11 A I don't know all of the information that's in Paragraph 1,
12 if I could look at it.

13 Q Go ahead and look at your Complaint if that -- will that
14 refresh your recollection?

15 A Yes, it would.

16 Q Go ahead and take a look at it and when you've had an
17 opportunity to review it let me know.

18 A Can you repeat your question again?

19 Q So did you receive any information from anyone at the
20 Greyhound Bus Lines prior to March 10th, 2016?

21 A I received information from a confidential source.

22 Q Okay, and that confidential source told you that Ollisha
23 Easley and Denise Moore would be traveling from Clermont,
24 California to Louisville, Kentucky, correct?

25 A No, I was not informed of that, no.

1 Q Okay. Was the confidential source paid?

2 A No, they were not paid for this information, no.

3 Q Okay. And the information that you had showed that
4 Ollisha Easley and Denise Moore would be traveling from
5 Clermont, California to Louisville, Kentucky, correct?

6 A That's what was on the Greyhound passenger list, yes.

7 Q And you saw that they had paid for their trip in cash?

8 A Yes, sir.

9 Q How many other passengers on the Greyhound bus had paid
10 for their trip in cash?

11 A I'm not exactly sure.

12 Q More than 10?

13 A I'm not exactly sure.

14 Q Can you give us any estimate at all?

15 A No, sir, I can't.

16 Q No estimate whatsoever? It could have been all of them,
17 it could have been only Ollisha, is that your testimony?

18 A My testimony is I don't remember exactly how many people
19 paid cash.

20 Q I understand that. I'm trying to narrow it down if I can
21 and if you can. Is it the only one was Ollisha, it could have
22 been all of them, anything in between, you just don't know?

23 **MR. GERSON:** Your Honor, I think we covered this
24 sufficiently.

25 **THE COURT:** Are you objecting?

1 **MR. GERSON:** Yes, your Honor, I am objecting.

2 **THE COURT:** Okay, and the basis for your objection
3 is?

4 **MR. GERSON:** Asked and answered, badgering,
5 argumentative.

6 **THE COURT:** Okay. All right, I sustain the
7 objection.

8 **BY MR. PORI:**

9 Q Do you know if Ollisha bought her ticket the day before
10 she traveled?

11 A I'm not exactly sure of the day she bought it.

12 Q Okay, it could have been the day before?

13 A It could have been, I'm not exactly sure.

14 Q If -- so on March 10th you were at the Greyhound Bus
15 station when the eastbound bus arrived in Albuquerque for its
16 cleaning and refueling stop, correct?

17 A Yes, sir, I was.

18 Q And you met the bus?

19 A I'm not exactly sure if I was there when it actually
20 arrived or not, I can't remember.

21 Q In Paragraph 3 of your Criminal -- or of your Affidavit
22 you said that you observed the luggage that was underneath of
23 the bus as checked luggage, correct?

24 A Yes, sir.

25 Q What did you do to observe it?

1 A I looked at it, looked at the tags.

2 Q And you're very familiar -- where did you look at it?

3 A I looked at it actually on numerous occasions. I looked
4 at it inside of the wash bay, and then after the bus had pulled
5 up to the -- where the passengers re-board, I observed the
6 luggage underneath the bus again.

7 Q You're familiar with the policies and procedures of the
8 Greyhound Bus Line with respect to searching a passenger's bags
9 while they're passengers on Greyhound Buses, correct?

10 A With Greyhound's policy?

11 Q Yes, sir.

12 A I'm not exactly sure of every detail of their policy, but
13 I know somewhat about their policy.

14 Q You know, for example, that if an employee of Greyhound is
15 going to search a passenger's luggage, the passenger has to be
16 present while that search occurs, correct?

17 A That's what I've been told, but I don't know if that's
18 their actual policy.

19 Q Okay. But in the wash bay, no Greyhound baggage handler
20 actually handles the luggage in the wash bay, correct?

21 A No, to my knowledge, no.

22 Q But you do?

23 A Yes, sir, I do.

24 Q You did on this occasion?

25 A Yes, sir.

1 Q And that involves opening the doors of each of the luggage
2 bays, correct?

3 A Yes, sir, it does.

4 Q It involves going through each individual luggage to try
5 to look at the tags and things like that, is that correct?

6 A Well, that depends on what you mean by "things like that,"
7 but, yes, it does involve looking at the tags.

8 Q Well, let's just -- I don't mean to -- let's talk about
9 this case. Tell me what you did to observe the luggage in the
10 wash bay.

11 A I opened up the luggage bins, as you stated, looked at the
12 luggage. Had to move some of the luggage to get to all of the
13 luggage. Looked at the tags. That's basically what I did.

14 Q Okay. Did you remove Ms. Easley's luggage?

15 A Eventually I removed it, yes.

16 Q When you were in the wash bay did you remove it?

17 A No, I don't think I removed it from underneath the bus,
18 no.

19 Q Okay. You said you "don't think." How certain are you
20 that you did not?

21 A I don't remember removing it from the bus.

22 Q And Ms. Moore's luggage, did you remove it -- in the wash
23 bay, excuse me?

24 A I don't remember moving her luggage from the bus --

25 Q Was Special Agent Gotea (phonetic) with you when the --

1 when you were observing the luggage in the manner that you
2 described at the wash bay?

3 A Yes, sir, he was.

4 Q And you're familiar with the cameras, the surveillance
5 cameras that are there in the wash bay, correct?

6 A Yes, sir, I am.

7 Q Do you know if Agent Gotea obscured any part of you from
8 the surveillance camera while you were observing the luggage
9 under the wash bay?

10 A I'm not sure exactly where --

11 Q Okay.

12 A -- Agent Gotea was at all times so I can't say yes or no
13 to that question.

14 Q So what -- tell me everything that you recall. How did
15 you observe the gray-colored Rome Essential brand suitcase with
16 the luggage check tag in the name of Ollisha Easley, tell me
17 exactly how you observed it and where it was.

18 Well, we'll maybe start with that. Where was the
19 Rome Essential brand suitcase when you observed it in the wash
20 bay?

21 A It was in the -- underneath the bus in the third luggage
22 bin from the front, so basically the back one.

23 Q Okay.

24 A It was lying inside with the other luggage.

25 Q Okay, and where was the black-tan colored G brand suitcase

1 with the luggage tag in the name of --

2 A The same location.

3 Q Okay, in the third wash bay amongst all of the other
4 luggage?

5 A Well, I don't know how -- you said "third wash bay."

6 Q I'm sorry, third cargo hold.

7 A Yes, sir.

8 Q And when we count third cargo hold we'd be talking about
9 the first cargo hold is the cargo hold closest to the bus
10 driver on the bus, is that correct?

11 A Yes, sir, that's correct.

12 Q And the third cargo bay would be the last cargo bay of the
13 bus, is that correct?

14 A Yes, sir.

15 Q All right. So after you observed this luggage you decided
16 to approach Ms. Easley, correct?

17 A No, I decided to get on the bus and speak with all of the
18 passengers as we normally do.

19 Q During these observations what other passengers did you
20 want to speak to?

21 A All of the passengers that were on the bus as we do in a
22 normal -- a normal day, that's what we attempt to do.

23 Q So what was it about your observation that was noteworthy
24 that you would include in this Criminal Complaint the
25 observation of Ms. Easley's luggage in the wash bay?

1 A Because she was one of the pieces of luggage that I
2 observed.

3 Q Okay. What are the names of the other people whose
4 luggage you observed there in the wash bay?

5 A I don't have the passenger list with me. If I did I would
6 give it to you.

7 Q So are you saying that there was nothing suspicious about
8 this luggage at the time you observed it in the wash bay?

9 A I wasn't finished answering the last question.

10 Q I'm sorry, go ahead.

11 A If I had that list I'd be able to tell you the other
12 names, but I don't know the other names.

13 Q Okay. But was there anything suspicious about Ms.
14 Easley's luggage that you observed when it was in the wash bay?

15 A No, sir.

16 Q Was there anything suspicious about any of the luggage you
17 observed when it was in the wash bay?

18 A No, sir.

19 Q And how many -- you boarded the bus and you spoke with Ms.
20 Easley, correct?

21 A Yes, I did.

22 Q How many people did you speak with before you spoke with
23 Ms. Easley?

24 A I don't know exactly, probably three-fourths of the bus.

25 Q Okay, and you tape record these encounters, correct?

1 A Yes, sir, I do.

2 Q And there is a tape of this encounter, correct?

3 A Yes, there is.

4 Q All right. Did you review that tape in preparing this
5 Criminal Complaint?

6 A No, sir, I did not.

7 Q So the Criminal Complaint was prepared from memory?

8 A Yes, sir, it was.

9 Q Okay. And I noted that you -- it might be hard to
10 remember all of these details, but when you first approached
11 Ms. Easley did you ask for her ticket and her identification?

12 A I asked for her ticket. I can't remember if I asked for
13 her identification, I believe I did, but I can't really
14 remember about the identification.

15 Q Can you give us a rough estimate of how many people you
16 spoke with on the bus that day?

17 A To my knowledge I spoke with each passenger, each and
18 every passenger that was on the bus that day.

19 Q And how many people would that be?

20 A The bus was pretty full, I can give you an estimate, I
21 don't know if I could --

22 Q That would be fine.

23 A It holds 51 or 55 passengers depending on the size of the
24 bus, maybe 35, 40, that's an estimate.

25 Q And that was -- you think that there were -- approximately

1 35 people on the bus that day?

2 A Well, 35 to 40 people, yes.

3 Q Okay, and you spoke with all 35 or 40 of the people?

4 A I -- to my knowledge I spoke with each passenger that was
5 on the bus, yes, sir.

6 Q Do you know if Agent Gotea spoke with any of the
7 passengers?

8 A He didn't speak with any passengers.

9 Q Why not?

10 A Because the person that generally works with me was on
11 vacation and I needed somebody to be with me, and Agent Gotea
12 doesn't work at the bus station, it's actually probably the
13 first or second time maybe he had been there, he doesn't do --
14 he doesn't do this type of work so he's basically there just to
15 cover me and to be my -- for officer safety issues.

16 Q Of all of the people that you spoke with, however many
17 people that may be, do you remember asking anyone else for both
18 their ticket and their identification?

19 A I don't recall.

20 Q Could you have?

21 A It's possible, yes.

22 Q Is it likely?

23 A I don't -- I don't know if I did or not, I can't remember.

24 Q Well, it's something that sticks out to me. Does it stick
25 out to you that you -- I know I've heard these tapes say "Hey,

1 where you going? How long you going to be there?" People
2 could get real chatty, but it's not often that -- it seems to
3 me, and you correct me if I'm wrong, it's not often that you
4 say "I need your ID and I need your ticket." Is that unusual
5 when you do these consensual encounters on the bus?

6 A Well, you went through a bunch of questions there, I don't
7 know which one you want me to answer.

8 Q Whichever one you feel like answering.

9 A Sometimes I ask for IDs, sometimes I ask for tickets,
10 sometimes I don't. I don't recall on this date how many IDs or
11 how many tickets I asked for.

12 Q I heard you when you say that, but my question was in your
13 experience is it unusual when you ask a passenger for both
14 their ticket and their ID?

15 A I wouldn't say that's unusual, no.

16 Q You don't remember -- you don't have an independent
17 recollection now of asking for anyone else's ticket and ID
18 besides Ms. Easley, correct?

19 A I don't remember how many if I did or not, I don't
20 remember that.

21 Q Okay. Nothing about her race that made you ask for both
22 her ticket and her ID was there?

23 A Nothing about her what?

24 Q Race?

25 A No, it had no factor in what I do on that bus or any other

1 bus.

2 Q Okay. Where there other African-Americans on the bus that
3 day?

4 A I believe there were, yes.

5 Q Okay. When you met Ms. Easley you asked for her ticket,
6 her ID, you asked for consent to search her belongings,
7 correct?

8 A I wouldn't say that's correct because you asked me earlier
9 if I asked her for her identification and I don't remember if I
10 did or not.

11 Q You asked if she had any luggage with her on the bus,
12 correct?

13 A Yes, sir, I did.

14 Q And she identified the backpack and the pillows, correct?

15 A Yes, sir, she did.

16 Q And she had -- she told you she had one checked in
17 suitcase, correct?

18 A Yes, she did.

19 Q And you asked for permission to search her backpacks and
20 the pillows, correct?

21 A Yes, sir.

22 Q And you did and found nothing, correct? She consented,
23 you searched them and you found nothing in the backpack or the
24 pillows, correct?

25 A Well, there was clothing and stuff in the backpack, I

1 wouldn't consider that nothing.

2 Q I'm sorry, you found nothing illegal in either the
3 backpack or the pillows, correct?

4 A Correct.

5 Q And then you asked for permission to search her luggage
6 underneath, correct?

7 A Yes, sir.

8 Q Okay. And then at some point you got off the bus, is that
9 correct?

10 A Yes, sir, I did.

11 Q And you pulled out Ms. Easley's suitcase, correct?

12 A Yes, I did.

13 Q And you also pulled out Ms. Moore's suitcase, correct?

14 A Yes, sir, eventually I did.

15 Q Okay. When did -- how many times did you get off the bus
16 and get back on the bus before you finally arrested Ms. Easley,
17 if you know?

18 A I don't know exactly.

19 Q Could it have been as many as four times?

20 A I don't know.

21 Q It could have been as many as four times?

22 A I don't know how many times I got on and off the bus.

23 Q Why don't you know? Why -- this is March, four days ago,
24 you have no idea whether it was one time or a thousand times,
25 or one time, help me out, Agent Perry.

1 A I'm not here to help you and I don't --

2 Q I understand that.

3 A I don't know how many times I got on and off the bus.

4 **THE COURT:** Will you hold on one second?

5 **MR. PORI:** Sure.

6 **(Pause)**

7 **THE COURT:** Okay, go ahead.

8 **MR. PORI:** Thank you.

9 **BY MR. PORI:**

10 Q Where was Ms. Easley when you searched her backpack?

11 A She was sitting in her seat.

12 Q Okay. Did you search Ms. Easley's purse?

13 A On the bus I'm not exactly sure if I did or not.

14 Q That wasn't my question. My question was did --

15 A Yes, I obviously did.

16 Q You don't know where she was when you searched her purse?

17 A I know that I searched it when she was standing outside
18 the bus.

19 Q Okay. How did you ask Ms. Easley to get off the bus?

20 A Just like you said, asked her if she could step off the
21 bus and speak with me.

22 Q Okay, was that -- Now we'll break this down. You asked
23 for permission to search her backpack and her pillow, and you
24 find no contraband and you get off the bus, is that correct?

25 A I got off the bus to look at her luggage, yes.

1 Q Okay, and then you got back on the bus to tell her to come
2 here, correct?

3 A No, that's not correct.

4 Q How did you get Ms. -- when you were off of the bus,
5 looking at her luggage, did you get back on the bus to speak to
6 Ms. Easley?

7 A Yes, sir, I did.

8 Q So that would be the second time that you got on the bus,
9 correct?

10 A Well, when you say "get on the bus," I may have gotten on
11 the bus and spoken with the driver, I may have gotten on the
12 bus and got back off earlier. I don't know how many times I
13 got on and off the bus, tell --

14 Q All right. Well, let's start, from the time you met Ms.
15 Easley, when you met Ms. Easley, you were on the bus, correct?

16 A I was already on the bus when I spoke with her.

17 Q And then you got off the bus to look at her luggage,
18 correct?

19 A To search it, yes.

20 Q And then you got back on the bus to talk to her, correct?

21 A Yes, sir, I did.

22 Q So for my purposes that would be at least the second time
23 that you got on the bus this day, correct?

24 A Well, it was the second time, yes.

25 Q So we know it's more than one, you remember now, you got

1 back on the bus more than one time, correct?

2 A Yes.

3 Q Are there any other times that you remember getting off
4 the bus and getting back on the bus between the time you met
5 Ms. Easley and the time you arrested her?

6 A I believe I got back on the bus when she was placed under
7 arrest.

8 Q Okay. So Ms. Easley got off the bus and submitted to a
9 search of her purse, correct?

10 A She did consent to that, yes.

11 Q And then did she get back on the bus?

12 A I believe she did, yes.

13 Q And then what did you do after she -- you searched her
14 purse, then Ms. Easley got back on the bus. What happened
15 next?

16 A I re-boarded the bus and she was placed under arrest.

17 Q Well, so she's off the bus. You search her purse, you
18 don't find any contraband in her purse, correct?

19 A No, I didn't find any contraband in her purse.

20 Q And then she gets back on the bus, correct?

21 A Yes, she did.

22 Q And then you get on the bus to arrest her, correct?

23 A Yes, sir.

24 Q What happened between the time you searched her purse and
25 the time you got on the bus to arrest her?

1 A I had searched the contents of the G-brand black and tan
2 colored suitcase.

3 Q Okay, and that wasn't in Ms. Easley's name?

4 A No, it was not.

5 Q Okay. And you don't know if the owner of that bag had
6 fled or had just not come back to the bus in time, you don't
7 know what happened to the owner of that bag, correct?

8 A At that time I did not know.

9 Q Okay. Do you know now?

10 A Based upon what Ms. Easley told me post-arrest, yes.

11 Q Okay, and we'll get to that. So how much time passed
12 between searching Ms. Easley's purse and her getting back on
13 the bus and you getting back on the bus to arrest Ms. Easley?

14 A I'm not exactly sure.

15 Q More than a minute?

16 A I'm not exactly sure.

17 Q It could have been a second?

18 A I don't think it was a second, no.

19 Q So between a second and infinity can you give me an
20 estimate of how much time it took?

21 A I can't give you an estimate, I don't know.

22 Q All right. And at some point you arrested Ms. Easley,
23 correct?

24 A Yes, sir.

25 Q You placed her in handcuffs, correct?

1 A Yes, sir.

2 Q And you took her from the bus station to the DEA office
3 over there on the -- what's the name of that neighborhood?

4 Mesa Del Sol?

5 A Yes, sir.

6 Q All right. And then you took her to the DEA office and
7 held her in the detention room there in the DEA office,
8 correct?

9 A Yes, sir.

10 Q And then at some point you spoke with her, correct?

11 A Yes, sir.

12 Q And do you remember saying to her "You need to be
13 selfish?"

14 A Yes, I did tell her it was a time to be selfish.

15 Q And tell me what -- from the time you made the statement
16 "You need to be selfish" tell me everything that you remember
17 saying until Ms. Easley waived her Miranda rights?

18 A Can you repeat the question, please?

19 Q From the time you said to Ms. Easley "You need to be
20 selfish" until the time that she waived her Miranda rights, can
21 you tell me everything that you said to her in that time
22 period?

23 A Not everything because I processed her during that time
24 period which included fingerprints, photographs. I'm sure I
25 told her to come out of the cell. I don't know everything I

1 told her when she moved around a lot as far as locations, so
2 that was during processing, I don't know everything that I told
3 her.

4 Q Was any part of that recorded?

5 A The part of the processing?

6 Q Yes, sir.

7 A No, sir.

8 Q All right. So tell me everything you remember telling her
9 between the time you said "You need to be selfish" and the time
10 she waived her Miranda rights.

11 A I don't know each and everything that I told her. I asked
12 her if she needed water. I asked her if she wanted anything to
13 eat, she had food in her bag. I asked her to step out of her
14 cell, we was going to process her. I asked her to stand
15 against the wall while I photographed her. I told her to sit
16 down on the bench. I asked her various questions for our
17 personal property form which is name, date of birth, address,
18 family members, Social Security number, phone number, where she
19 was born.

20 Q Let me ask you this, Agent Perry, did you tell her that
21 she needs to think about her kids?

22 A Yeah, I told her she needed to take her kids into
23 consideration.

24 Q Did you tell her the people who gave her that -- those
25 drugs in Denise's suitcase didn't give an "F" about her?

1 A I don't know if that's the exact word that I used, no.

2 Q Tell me, do you know the sentiment I'm implying? Did you
3 say anything like that? Tell me the words you used, "These
4 MFers don't give an F about you," something like that?

5 A No, I don't believe I used any of those words.

6 Q Okay. Tell me what you do remember about these people
7 don't have your best interests at heart, did you convey that
8 impression to her at some point?

9 A Yeah, but it was not that way, it was totally different
10 than the way you said it.

11 Q Oh, fine, okay, I'm sorry. Tell me what you said.

12 A I don't remember the exact point, but it was told to her
13 that people, they don't really care, they don't care about her.

14 Q Okay, so you did convey to her these people don't care
15 about you?

16 A Yes.

17 Q And you need to help yourself?

18 A I don't believe I ever told her she needed to help
19 herself, I told her she needs -- this is the time in her life
20 if -- I told her I didn't know if she was a selfish person or
21 not --

22 Q Uh-huh (yes.)

23 A -- and if she wasn't this is the time in her life that she
24 needed to be selfish and think about it.

25 Q Did she ever ask you at any point before she waived her

1 Miranda rights, "What am I going to get out of it?"

2 A Before?

3 Q Yes, sir.

4 A I don't recall.

5 Q She may have?

6 A I don't recall.

7 Q And it's very important that we clear this up. There's
8 two things I don't recall, "I don't recall" means, either one,
9 she may have said it and I don't recall; or, two, I do recall
10 that she did not say that. Which of those is it?

11 A I don't recall if she said it or not.

12 Q All right. But not "I don't recall that she did not say
13 that?" You cannot affirmatively say that she did not say "What
14 do I get out of it?"

15 **MR. GERSON:** I object, I don't understand the
16 question. I'm sure he's much more clever than I, but I would
17 ask him -- I don't think we need an answer to this question.

18 **MR. PORI:** I'm going to move on. Please let me
19 rephrase. I'm going to move on.

20 **BY MR. PORI:**

21 Q Did you ever tell her, before she waived her Miranda
22 rights, "If you want me to help you I can go in front of the
23 Judge and tell him or her you were helpful?"

24 A No, I never told her if she wanted me to help her -- no, I
25 don't --

1 Q Did you make -- did you suggest anything like that?

2 A I don't remember saying that, no.

3 Q Oh, I know you don't remember saying that. That wasn't my
4 question, my question was did you convey a sentiment like that
5 in any way?

6 A I don't recall saying that statement or anything like
7 that, no.

8 Q And, again, there's two "I don't recalls," one, I don't
9 recall if I may have said it, or two, I do not recall making
10 that statement.

11 A I don't remember making that statement.

12 Q All right, thank you. All of this conversation was before
13 you took her into an interview room where there was a tape
14 recorded statement made, correct?

15 A When you say "all of this conversation," I don't what-all
16 conversation you're referring to.

17 Q I'm sorry. Let's see if we can be clear at the same time.
18 There was a time when you said to Ms. Easley, "You need to be
19 selfish," is that correct?

20 A As I testified earlier I'll stick with the statement I
21 testified to earlier is what I said.

22 Q Okay, and then there was a time when she waived her
23 Miranda rights, correct?

24 A Yes, sir.

25 Q Now we're talking about the time between those two events,

1 do you have that time in mind? The time between "you need to
2 be selfish" and the time that she waived her Miranda rights, do
3 you have that time in mind?

4 A This is during processing as I've testified to earlier.

5 Q Okay, is that how we should describe that time period as
6 during processing, is that the easiest way to describe it?

7 A That's what actually occurred.

8 Q Okay, is that the easiest way to describe it for you?

9 A That's what occurred, so, yes.

10 Q I understand. Is that the easiest way to describe it for
11 you?

12 **THE COURT:** He said "yes."

13 **MR. GERSON:** Objection, asked and answered
14 repeatedly.

15 **BY MR. PORI:**

16 Q During processing was the conversation that you had with
17 Ms. Easley recorded?

18 A Not during processing. I believe I answered that earlier.

19 Q I believe you did, too.

20 And when you took the Miranda rights, a waiver, was
21 that recorded?

22 A Yes, sir, it was.

23 Q Where did that happen?

24 A It was audio and video recorded at the DEA office in the
25 interview room right besides the processing area.

1 Q So we talked about the processing time that wasn't
2 recorded, and we talked about "you need to be selfish," "you
3 need to think about your kids," "these people don't care about
4 you."

5 Do you remember anything else you said to her aside
6 from completing forms and get out of the cell and do you want
7 water? Anything like "You can either help yourself or hurt
8 yourself," anything along those lines?

9 A I don't remember all of that conversation, no.

10 Q Okay, and in the -- you took her to a room where she made
11 the Mirandized statement that was recorded, correct?

12 A Yes, sir.

13 Q And during that statement did she tell you that she was
14 transporting narcotics?

15 A Yes, she did.

16 Q And did she tell you she didn't know what kind of
17 narcotics she was transporting?

18 A Yes, she did make that statement, too.

19 Q And did you field test these narcotics?

20 A Yes, sir, I did.

21 Q And you think they're methamphetamine?

22 A The field test kit revealed that it was methamphetamine.

23 Q Well, you and I have a case where it field tested for
24 methamphetamine and it turned out to be Fentanyl, correct?

25 A Yes, that's correct.

1 Q Do we know if we're dealing with Fentanyl?

2 A I don't believe it's Fentanyl.

3 Q Are we dealing with steroids?

4 A I believe it's methamphetamine.

5 MR. PORI: Your Honor, may I have a moment?

6 (Pause)

7 MR. PORI: I have nothing further, thank you.

8 THE COURT: Okay. Any Redirect?

9 MR. GERSON: No, your Honor.

10 THE COURT: All right, Agent Perry, you may step
11 down.

12 THE WITNESS: Thank you.

13 (Witness excused)

14 MR. PORI: Your Honor, we're prepared to submit with
15 respect to the matter of Probable Cause and we are asking to be
16 heard on Detention.

17 THE COURT: Okay. Does the Government want to make
18 any statements or are you prepared to submit as well?

19 MR. GERSON: We're prepared to submit, your Honor.

20 THE COURT: Okay. All right, based on the proffer
21 and the testimony of Agent Perry I find that there's Probable
22 Cause to believe that Ms. Easley committed the crime of
23 possession of over 500 grams of a mixture and substance
24 containing a detectable amount of methamphetamine with intent
25 to distribute.

1 Now as to detention --

2 **MR. PORI:** Your Honor, we have no objection to the
3 Court taking judicial notice of the Pretrial Services Report.
4 We admit that the presumption applies. We know the
5 recommendation is for detention, we understand she has a prior
6 conviction for robbery. The only thing notable about that is
7 that she was given straight probation on that. That matter is
8 still pending, a probation violation, so it's not a regular
9 robbery.

10 I would ask the Court to consider releasing Ms.
11 Easley to the custody of the La Pasada Halfway House. I think
12 that she -- and even released on an electronic monitor so that
13 would reduce the risk of flight. I think that this is an
14 individual who could benefit from the counseling treatment and
15 testing provided by both the Pretrial Services office and the
16 folks at La Pasada. I think that release to La Pasada will
17 protect the public. I don't anticipate that there would be any
18 risk of danger to anyone in the public.

19 I think the real issue here, I think, through, you
20 know, the Government, although the presumption applies I think
21 if we come forward with evidence enough to rebut the
22 presumption, which I think is apparent, that she confessed, she
23 was honest, she was cooperative. She didn't resist, she didn't
24 fight, she didn't -- she told the agent what she knew,
25 presumably without any kind of incentive, although that may be

1 disputed further on down the road.

2 But I think the fact that she was forthright, that
3 she -- he doesn't recall that she said "I didn't even know what
4 kind of drugs I was carrying," but the Complaint speaks for
5 itself. She was to be paid \$1,000. She is, clearly, a minor
6 player in an ongoing conspiracy that we see signs of every day.
7 She is not a violent person and I think that her coming forward
8 with evidence is sufficient to rebut the presumption and put
9 the presumption back on the Prosecution to prove by clear and
10 convincing evidence that she's a danger. I don't think they
11 can meet that burden here.

12 And then to prove by a preponderance of the evidence
13 that she's a flight risk, and I think even if she is a flight
14 risk, the Court is obligated to fashion the least restrictive
15 conditions designed to address that risk and release her to La
16 Pasada Halfway House on an ankle bracelet, I respectfully
17 submit, would solve that problem.

18 **THE COURT:** Well, one of the things I'm concerned
19 about is that I really am operating with limited information
20 with regard to making the assessment of all of the 3142 factors
21 because Ms. Easley didn't submit any information for an
22 interview, so I don't know how long she has resided in
23 Kentucky. I don't know, you alluded to the fact that she has
24 children, I don't know anything about her children, I don't
25 know about her travel to other places, I don't know any of the

1 information about her circumstances to make a full evaluation
2 of all of those factors.

3 **MR. PORI:** I'm sorry about that. I should have read
4 the report more carefully and I'm sorry to waste your time for
5 that. Then what I would ask is that we set this matter over to
6 Wednesday when I'll be back here in Court, ask Pretrial
7 Services to interview her in my presence and we'll get you all
8 of that information.

9 **THE COURT:** Okay. All right. Any objection to
10 continuing this --

11 **MR. GERSON:** No, your Honor.

12 **THE COURT:** -- detention hearing?

13 All right, Ms. Easley, because the Pretrial Services
14 Report doesn't contain enough information for me to consider
15 all of the factors that are -- that I'm required to consider
16 under the statute for determining whether there are conditions
17 of release that can be fashioned, your Counsel has requested a
18 continuance of the Detention Hearing between now and Wednesday.
19 Pretrial Services will interview you with your attorney present
20 and any questions that he doesn't object to you providing
21 answers to will be put into this report so that I can consider
22 all of the factors including your history, your circumstances,
23 your time at your present address in Kentucky and all of that,
24 in making a determine about whether there are conditions under
25 which you can be released pending trial in your case, okay?

1 **THE DEFENDANT:** Yes, your Honor.

2 **THE COURT:** Do you have any objection to me
3 continuing the hearing till Wednesday?

4 **THE DEFENDANT:** No, your Honor.

5 **THE COURT:** All right. You are going to be remanded
6 to the custody of the Marshals Service pending your Detention
7 Hearing on Wednesday. Thank you.

8 **MR. PORI:** Thank you, your Honor. May we be excused?

9 **THE COURT:** Yes.

10 **MR. PORI:** Thank you, Judge.

11 **(This proceeding was adjourned at 11:41 a.m.)**

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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

A handwritten signature in cursive script, appearing to read "Toni Hudson", is positioned above a horizontal line.

June 17, 2016

TONI HUDSON, TRANSCRIBER